

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

LYDIA LOSCHIAVO, ALISON CHARLES, )  
and RENAUD FOURNIER, Derivatively )  
On Behalf Of The Lehman Brothers Savings )  
Plan, )

Plaintiffs, )

vs. )

FIDELITY MANAGEMENT TRUST )  
COMPANY and ERNST & YOUNG, )

Defendants, )

-and- )

THE LEHMAN BROTHERS SAVINGS )  
PLAN, )

Nominal Defendant. )

**09 MD 2017 (LAK), 10 Civ. 08631  
(LAK)**

**ORAL ARGUMENT REQUESTED**

**NOTICE OF NOMINAL DEFENDANT THE LEHMAN BROTHERS SAVINGS  
PLAN'S PARTIAL MOTION TO DISMISS VERIFIED COMPLAINT  
PURSUANT TO RULE 12(b)(6)**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendant Nominal Defendant the Lehman Brothers Savings Plan's (the "Plan") Partial Motion to Dismiss Verified Complaint Pursuant to Rule 12(b)(6), the Plan will move this Court before the Honorable J. Lewis A. Kaplan, at the United States District Courthouse, located at 500 Pearl Street, New York, New York, on a date to be determined by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of

Civil Procedure granting the Plan's motion to dismiss the Second Cause of Action in Plaintiffs' Verified Complaint with prejudice.

Dated: New York, New York  
January 6, 2012

Respectfully submitted,

/s/ Lawrence Baer

Lawrence Baer

Nicholas J. Pappas

A. Millie Warner

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, New York

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

*Attorneys for Nominal Defendant*

*The Lehman Brothers Savings Plan*